

JUL 28 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GUILLERMO LOPEZ,

Defendant - Appellant.

No. 05-10638

D.C. No. CR-03-05204-OWW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, District Judge, Presiding

Submitted July 26, 2006^{**}
San Francisco, California

Before: SILVERMAN and RAWLINSON, Circuit Judges, and BERTELSMAN^{***},
Senior District Judge.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

^{***} The Honorable William O. Bertelsman, Senior United States District Judge for the Eastern District of Kentucky, sitting by designation.

Because there were several independent bases supporting probable cause for the search warrant, the district court did not err in admitting the seized evidence or in denying a *Franks* hearing. *See United States v. Meling*, 47 F.3d 1546, 1554 (9th Cir. 1995) (“If, when material that is the subject of the alleged falsity or reckless disregard is set to one side, there remains sufficient content in the warrant affidavit to support a finding of probable cause, no hearing is required.”) (citation and alteration omitted).

The district court did not abuse its discretion in admitting the narcotics samples, as the government sufficiently established the chain of custody and Appellant failed to produce any evidence of tampering. *See United States v. Angulo*, 598 F.2d 1182, 1186-87 (9th Cir. 1979) ; *see also United States v. Kaiser*, 660 F.2d 724, 733 (9th Cir. 1981).

AFFIRMED.